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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/678,616	10/04/2000	Max Harry Weil	20/168	6966

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EXAMINER

YU, JUSTINE ROMANG

ART UNIT PAPER NUMBER

3764

DATE MAILED: 06/16/2003

12

Please find below and/or attached an Office communication concerning this application or proceeding.

8e

Office Action Summary

Application No.

09/678,616

Applicant(s)

WEIL ET AL.

Examiner

Justine R Yu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 February 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8, 10 and 13-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8, 10, and 13-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

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DETAILED ACTION

1. This office action is responsive to the amendment filed on 2/7/03. As directed by the amendment, claims 8 and 13 were amended; no claim was canceled nor added. Thus, claims 8, 10, and 13-15 are presently pending in this application.

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "182" has been used to designate both "location" and "rivet", see figure 2. Correction is required.

3. The drawings are objected to because there are two figures being designated as "figure 1". In figure 3, the numeral "16" being pointed to the belt; the relationship between element "264" and the compression device is not shown, similar to the element "260" in figure 3. In addition, it is not clear from which plane in figure 1 that the cross-sectional view figure 2 is being taken. Notes that the plane upon which a sectional view is taken should be indicated on the view from which the section is cut by a broken line. The ends of the broken line should be designated by Arabic or Roman numerals corresponding to the view number of the sectional view, and should have arrows to indicate the direction of sights. See MPEP 608.02 (h)(3). Correction is required.

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4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the stabilizer includes a plurality of leg portions to limit tilt of the compressor assembly in **every tilt direction** as recited in claim 13 must be shown or the feature(s) canceled from the claim(s).

Claim Rejections - 35 USC § 112

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 13 and 14 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The original filed specification fails to provide an enabling disclosure of the stabilizer leg portion outer ends being spaced further from the axis than the pressing member in **every horizontal direction** to limit tilt of the compressor assembly in **every tilt direction** (claim 13).

7. Claim 10 and 13-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 10, "said stabilizer **comprises** a saucer-shaped element" is misdescribed because it is understood that the saucer-shaped stabilizer is one of the embodiments of the stabilizer,

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which is different from the one having a plurality of leg portions. Note it appears that the applicant attempts to claim a stabilizer including a plurality of legs and further including a saucer-shaped element.

In claim 13, line 11 "said axis" lacks antecedent basis.

In claim 15, line 8, "which is coupled to said torso wrap" is unclear as to which part is being coupled to the wrap, the inside surface or the cylinder.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 13 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Waide et al (5,399,148).

Waide teaches a cardiac massage device having an energizable compressor assembly 1 (figure 2) including a pressing member 2, a torso wrap 5, a stabilizer (3, 4) having a plurality of leg portions 3 (i.e., left and right leg portions with respect to the patient's body). Figure 1 of Waide shows the pressing member having a vertical axis extending from the center of the pressing member, and each stabilizer leg portion 3 has an outer end that is spaced further from the axis than the pressing member in every horizontal direction such that the outer ends of the leg portions are located closer to the respectively left and right hand side of the patient's body than the pressing member.

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Regarding claim 14, figure 1 of Waide shows the outer end portions of the leg portions having a substantially same height above a horizontal patient's chest as the pressing member.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claim 8 is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Waide et al in view of Arpin (4,702,231).

Waide in figure 2 shows the cardiac device having the pressing member 2, a stabilizer including left and right leg portions 3, the outer ends of the leg portions being spaced about the vertical axis of the pressing member 2, and the outer ends of the left and right leg portions being spaced further in the respective patient's left and right hand sides of his body than any part of the pressing member 2 (figures 1 and 2). Waide lacks a detail description that the left and right leg portions including ends that lie respectively closer to the head and legs of the patient than the pressing member. However, according to figure 1 of Waide, it appears that the width of the pressing member 2 is smaller than the width of the leg portions 3. Thus, it is inherent upon the drawing that the leg portions have side edges (ends) being lie respectively closer to the head and legs of the patient.

Even if Waide's pressing member and the leg portions have the same width, however, Arpin teaches a stabilizer 41 having a width greater than the width of the pressing member 43

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(figures 2, 4). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide Waide's stabilizer with greater in width than the pressing member as taught by Arpin, in order to provide a larger contact surface to improve stability of the device.

12. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Waide et al or Waide et al in view of Arpin as applied to claim 1. Waide's stabilizer has two substantially parallel leg portions forming a concave-shaped element (saucer-shaped element) which extending 180 degrees about the axis but silent on having a saucer-shaped element that extends more than 180 degrees about the axis. However, the feature of choosing a particular shaped stabilizer, i.e., a saucer-shaped element which extending more than 180 degrees about the axis is considered as an obvious design choice within the knowledge of one skill in the art, since it appears that the modified Waide's device would perform equally well with the recited saucer-shaped stabilizer.

13. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Woudenberg et al (4,664,098) in view of Barkalow (3,610,233) and Kuroiwa (JP 411,301,484 A).

Woudenberg discloses a cardiopulmonary resuscitator having an energizable compressor assembly which including an actuator (12, 25) and a fluid source 15, and a torso wrap 17.

Figure 1 of Woudenberg shows the actuator having a bellows-shaped pressing means 12 including a contact surface 13 (lowermost piston part) and a flexible wall section 60, the lowermost piston part 13 having at least half the diameter of the inside surface of the pressing

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means 12, and the contact surface (lowermost piston part) is movable, extendable in a reciprocal motion via the flexible wall and the pressure therewith. Woudenberg's extendable actuator lacks a cylinder having a piston with a plurality of telescoping piston parts. However, Barkalow teaches an actuator 11 formed of a cylinder 13 having an inside surface and a piston 16, the piston 16 is extendable in a reciprocal motion. In addition, Kuroiwa teaches a pneumatic cylinder having a telescopic piston 1 which including a plurality of piston parts (figure 2) that are exposed to pressure fluid to move the outermost piston part 3 (figure 2). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute Woudenberg's extendable bellows-shaped actuator with a pneumatic cylinder including telescopic piston parts as taught by Barkalow and Kuroiwa, so that the extension length of the piston could be selectively controlled.

Conclusion

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justine R Yu whose telephone number is (703)308-2675. The examiner can normally be reached on 8:30am - 6:00Pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nick Lucchesi can be reached on (703)308-2698. The fax phone numbers for the organization where this application or proceeding is assigned are (703)305-3590 for regular communications and (703)305-3590 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0858.

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Justine R Yu
Primary Examiner
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JY

June 13, 2003